

December 13, 2019

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Association of American Railroads *Ex Parte*
WT Docket No. 17-200**

Dear Ms. Dortch:

In its Comments and Reply Comments in this proceeding,¹ the Association of American Railroads (“AAR”) urged the Commission to revise its proposed rules in a manner that would allow AAR and Anterix to proceed with a previously-negotiated spectrum swap, whereby AAR would assign its call sign WPSF894, containing six paired channels in the 900 MHz band, to Anterix and, in exchange, would receive from Anterix ten paired channels in the 900 MHz A Block. As part of this this negotiated exchange, AAR’s member railroads would bear the full expense – estimated at \$70 million – of relocating their facilities to the new spectrum. As explained in the filings, this spectrum swap would clear AAR’s near nationwide operations from the proposed broadband segment, while providing AAR with sufficient contiguous spectrum to form a wideband channel that can be used for a variety of future train safety-related applications.²

While the assignment of spectrum through a private contractual transaction between AAR and Anterix is one solution for relocating railroad operations in the 900 MHz band, AAR recognizes that the same result could be achieved by other means. The FCC could, for example, use its license modification authority found in Section 316 of the Communications Act to modify AAR’s existing license by adding the ten A Block channel pairs and, after an appropriate transition period, remove the six original channel pairs. As a prerequisite to such a modification, Anterix would need to surrender its A Block spectrum so that the spectrum would be available to the Commission to add to AAR’s license.³ The use of the Commission’s license modification authority would be consistent with actions the Commission has taken in other situations involving the relocation of licensees to new spectrum, including in band reconfiguration proceedings.⁴

¹ See Comments of the Association of American Railroads, WT Docket No. 17-200 (June 3, 2019) (“Comments”); Reply Comments of the Association of American Railroads, WT Docket No. 17-200 (July 5, 2019).

² See Comments at 7-8. To be clear, until a railroad converts its operations to wideband in a particular area, it must maintain the option to operate on narrowband channels in the A Block.

³ There are three markets in which the A Block is held in FCC inventory. In these markets, Anterix would surrender an equivalent amount of C Block spectrum.

⁴ See *Improving Public Safety Communications in the 800 MHz Band, et al.*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969, ¶ 65 (2004) (stating that under Section 316’s broad grant of authority to modify licenses “the Commission need only find that the proposed

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As previously explained, a relocation of the railroads' current operations in the 900 MHz band would constitute a major undertaking.⁵ Some 9,500 radios would either need to be retuned or entirely replaced. In either case, personnel must physically travel to each site and swap out the radios.⁶ Because many of the radios are located in remote areas, it can take hours of travel time to reach the sites. Even before the field work can start, a significant amount of time will be required to develop and build new radios and to develop new channel plans across the country. As stated in AAR's Comments, given the enormity of the undertaking, the railroads would need at least five years to complete a transition off of all six current channel pairs in all parts of the country.⁷ Thus, AAR would propose that its six original channel pairs be removed from WPSF894 five years after the license is modified to add the A Block channels.⁸

AAR is in discussions with Anterix regarding the outlines of a potential transition period. Although specific interim deadlines have not yet been determined, AAR plans to coordinate with Anterix or any other broadband licensee such that AAR would work to vacate its upper three channel pairs – the ones that fall within the proposed broadband segment – at an accelerated pace in the markets identified by the broadband licensee as being priorities. Focusing transition efforts on the channels that are encumbering the broadband segment in the markets where a broadband licensee is present and most eager to provide service would be the most efficient means of expediting the initiation of broadband service to the most customers.⁹

modification serves the public interest, convenience and necessity" and citing *California Metro Mobile Communications v. FCC*, 365 F.3d 38, 45 (D.C. Cir. 2004)); *Amendments to the Television Table of Assignments to Change Noncommercial Educational Reservations*, Report and Order, 59 Rad. Reg. 2d (P&F) 1455, ¶¶ 21-22 (1986), *aff'd*, *Rainbow Broadcasting v. FCC*, 949 F.2d 405 (D.C. Cir. 1991) (exercising authority under Section 316 to modify licenses and relocate existing licensees to new spectrum outside of a competitive bidding process).

⁵ See Comments at 6.

⁶ *Id.*

⁷ *Id.* at 7.

⁸ To the extent that there are unforeseen circumstances in specific areas that create a delay in the planned transition process, it is possible that AAR might need to seek special temporary authority ("STA") to continue operations on the three lower channel pairs (*i.e.*, those not falling within the broadband segment) in those areas.

⁹ By contrast, transitioning railroad operations by entire regions of the country would be neither realistically feasible for the railroads nor particularly helpful to the broadband licensees. Because most railroads have operations that are more concentrated in one or two regions, and most regions are served primarily by one or two major railroads, a region-by-region transition would place an unrealistic burden on the railroads whose regions get scheduled to transition first. Likewise, the areas of strongest broadband service demand will likely fall into multiple regions. It is best to allow all railroads to have the full five year period to execute a transition, and to allow the broadband licensees to help prioritize the markets, based on where there is strongest demand and where they know that other incumbents can be promptly relocated.

In summary, AAR would support a modification of its license to enable a reconfiguration of the 900 MHz band and to clear the way for the proposed broadband segment, but any such modification must allow AAR at least five years to transition off all six channel pairs.

Respectfully submitted,

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